

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR.

ORDER

Mahendra Kumar and Ors. Versus State of Rajasthan & Anr.

S.B. Criminal Misc. Petition No. 1443/2007

...

Date of Order: : 25/09/2007

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Bharat Shrimali, for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.
Mr. Rahul Bathi for the respondent No.2 complainant.

BY THE COURT:

On a first information report lodged by respondent No.2 Smt. Vidhya Singhal against the petitioners Mahendra Kumar, Janaki Lal and Smt. Bhanwari Bai who are husband and parents-in-law of the complainant respondent No.2 for the offences under Sections 498-A and 406 IPC, the police investigated the matter and filed challan against the petitioners before the Additional Chief Judicial Magistrate No.2, Udaipur (for short 'the trial court' hereinafter).

During pendency of the trial of the case, the parties compromised the matter and dispute between them has been amicably settled by compromise and the complainant respondent No.2 started living with her husband Mahendra Kumar who is said to be serving as Teacher at Govt. Primary School, Barlavada, district Sirohi and the petitioners No.2 and 3 who are parents-in-law of the respondent No.2 are also residing with them. The respondent complainant No.2 filed a compromise before the trial court stating therein that she has settled the dispute amicably and now wishes to live with her husband as his wife and also started living as husband and wife together and therefore, she does not wish to proceed in the matter against the petitioners. The trial court declined to accept the compromise on the ground that the offence punishable under Section 498-A IPC is not compoundable.

The offence punishable under Section 406 IPC is compoundable by the owner of the property whose property alleged to have been misappropriated with the permission of the Court. So far as the offence punishable under Section 498-A IPC is concerned, though it is not compoundable under Section 320 Cr.P.C., but since the matter is between husband and wife and since the respondent No.2 complainant wishes to continue her marital relations with her husband and wanted to lead a peaceful marital life, Section 320 Cr.P.C. does not limit or affect the

powers under Section 482 Cr.P.C. for quashing the criminal proceedings or complaint. The respondent No.2 complainant appeared before this Court and again filed a compromise stating therein that she has compromised the matter as also stated that she has received her dowry articles from her husband and the dowry articles are now jointly possessed by her and her husband. The compromise has been verified by the Additional Registrar (Admn.) of this Court today. The complainant respondent No.2 who is present in Court on being asked categorically stated that she has no grievance against her husband and her parents-in-law who are petitioners herein and does not wish to make any statement against the petitioners.

In B.S. Joshi & ors. Vs. State of Haryana & Anr., 2003 SCC (Cri.) 848, the Hon'ble Supreme Court held that if for the purpose of securing the ends of justice, quashing of FIR becomes necessary, Section 320 Cr.P.C. would not be a bar to the exercise of power of quashing the FIR. The Apex Court further observed that the High Court, in exercise of its inherent powers can quash criminal proceedings or FIR or complaint and Section 320 Cr.P.C. does not limit or affect the powers under Section 482 Cr.P.C. It was further held that non-exercise of inherent power to quash the proceedings to meet the ends of justice would prevent women from settling earlier and that is not the object of Chapter XX-A of the IPC.

In Surendra Singh & ors. Vs. State of Rajasthan & Anr., 2005 (1) RCC 453, a coordinate Bench of this Court held that the basic object of matrimonial law is to facilitate happy and harmonious matrimonial life between the spouses and if they approach the Court, permission sought for to compound the offences under Sections 498-A and 406 IPC pursuant upon the compromise filed by the parties should be accorded by this Court under Section 482 Cr.P.C.

In this view of the matter, when the parties have amicably settled the dispute and in order to have a peaceful marital life, the complainant respondent No.2 started living with her husband, keeping in view the decision of Hon'ble Supreme Court in B.S. Joshi & ors. Vs. State of Haryana & Anr. (supra), in the interest of justice, in my view, no useful purpose would be served in allowing the proceedings to continue any further.

Consequently, the criminal misc. petition is allowed. The petitioners are acquitted of the offence under Section 406 IPC on being compounded by the respondent No.2 the owner of the property and the proceedings against the petitioners under Sections 498-A as also under Section 406 IPC stand quashed in order to secure the ends of justice.

(H.R. PANWAR), J.

S.B.CRIMINAL MISC. STAY PETITION NO. 868/07

IN

S.B.CRIMINAL MISC. PETITION NO.1443/07

(Mahendra Kumar and Ors. Vs. State of Rajasthan and Anr.)

Date of Order : 25/09/2007

HON'BLE MR. JUSTICE H.R.PANWAR.

Mr. Bharat Shrimali, for the petitioner.

Mr. Ashok Upadhyaya, Public Prosecutor for the State.

Mr. Rahul Bathi for the respondent No.2 complainant.

Since the criminal misc. petition itself has been allowed, the stay petition stands disposed of.

(H.R. PANWAR),J.

rp.